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## FACSIMILE TRANSMITTAL SHEET

TO: EXAMINER: Leah H. SCHLIENTZ FROM: MICHAEL J. MAZZA

COMPANY: UNITED STATES PATENT OFFICE PHONE NUMBER: 650-631-3271  
GROUP ART UNIT: 1618

FAX NUMBER: 1-571-273-8300 FAX NUMBER: 650-620-6395

PHONE NUMBER: DATE: April 19, 2007

RE: U.S. PATENT APPLICATION NO. 10/750,934; FILED 12/31/2003  
FIRST INVENTOR: THOMAS E. TARARA

## ENCLOSED:

TRANSMITTAL FORM PTO/SB/21 (1 PAGE)

REPLY TO RESTRICTION REQUIREMENT (3 PAGES)

TOTAL NO. OF PAGES INCLUDING COVER: 5

☐ URGENT ☒ FOR REVIEW ☒ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

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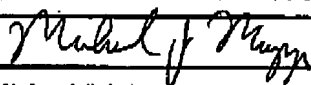
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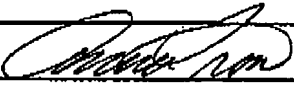
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/750,934	
	Filing Date	December 31, 2003	
	First Named Inventor	Thomas E. TARARA	
	Art Unit	1618	
	Examiner Name	Leah H. SCHLIENTZ	
Total Number of Pages in This Submission	5	Attorney Docket Number	0101.00

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Transmittal
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Firm Name	NEKTAR THERAPEUTICS		
Signature			
Printed name	Michael J. Mazza		
Date	4/19/07	Reg. No.	30,775

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	Anna Tran	Date
		04/19/07

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**APR 19 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of:

Thomas Tarara <i>et al.</i>	Examiner:	Leah H. Schlientz
Serial No.: 10/750,934	Art Unit:	1618
Filed: Dec 31, 2003		
Title: <b>PHARMACEUTICAL FORMULATION WITH AN INSOLUBLE ACTIVE AGENT</b>		

**RESPONSE TO OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This Reply to Restriction Requirement is submitted in response to the Office communication mailed on March 21, 2007, which required restriction of the claims in the above-identified application.

**RESPONSE TO RESTRICTION REQUIREMENT****A. The Restriction Requirement:**

The Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

- I. Claims 1-22 and 38-83 as being drawn to a formulation, classified in 514/31; and
- II. Claims 23-37 and 84-102 as being drawn to a method of making, classified in 424/490

**B. Response to the Restriction Requirement:**

In response, Applicants hereby elect Group I, comprising claims 1-22 and 38-83, **with traverse**.

Traverse is premised on the ground that a combined search of the two Groups does not impose an undue burden on the Examiner. As stated in the Manual of Patent Examining Procedure ("MPEP"),

[i]f the search and examination of an entire application can be made **without serious burden**, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

**M.P.E.P. Section 803**

In view of the relationship of the claims of Group I and Group II as product and method of making, a search of potential art in this classification is simultaneously useful for each of these two Groups. In view of the above, it is therefore believed that search and examination of the entire application can be made without serious burden to the Examiner. Consequently, reconsideration and removal of the requirement for restriction are respectfully requested.

In addition, with respect to the requirements to elect specific species, Applicant emphasizes that the independent claim appears to be easily searched to thereby narrow the amount of relevant prior art the Examiner must consider. In this way, the Examiner should be able to identify any relevant prior art for the entire scope of the elected Group and not simply for the elected species.

Finally, Applicant emphasizes that election of the species is for initial search purposes only and that Applicants will be entitled to consideration of additional species upon the allowance of a generic claim as provided by 37 C.F.R. §1.41.

With regard to the election of species, applicant elects, **with traverse** and solely for the purposes of searching: (1) with regard to a hydrophobic material, applicant provisionally elects a lipid, and further elects a phospholipid.